DÁIL ÉIREANN

AN ROGHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 25 Samhain 2021

Thursday, 25 November 2021

Tháinig an Romhchoiste le chéile ag 1.30 p.m.

The Select Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	
Pearse Doherty,	
Paschal Donohoe (Minister for Finance),	
Steven Matthews.	

Teachta/Deputy Bernard J. Durkan sa Chathaoir/in the Chair.

Finance (European Stability Mechanism and Single Resolution Fund) Bill 2021: Committee Stage

Vice Chairman: We have received apologies from the Chairman, Deputy McGuinness. I remind members to ensure their mobile phones are switched off. If they are not switched off, there will be the usual consequences, whatever they are. The contributions of members who speak from positions in the room that do not have microphones cannot be included in the Official Report. Members also need to have a microphone in front of them if they are outside of the Chamber. For the purposes of the Official Report, I have been requested to identify members when they are called to speak. Members are requested to remove their face coverings when speaking to ensure their contributions can be adequately and clearly recorded. I welcome members and viewers who may be watching our proceedings on Oireachtas TV to the public session of the Oireachtas Select Committee on Finance, Public Expenditure and Reform, and Taoiseach.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. Parliamentary privilege is considered to apply to the utterances of members participating online in a committee meeting when their participation is from within the parliamentary precincts. For this purpose, the parliamentary precincts are considered to be the accommodation assigned to the member in the Leinster House complex or its vicinity, or another location in Leinster House or Leinster House 2000. I ask the members to note that they may participate remotely in proceedings held in public only from the locations listed earlier as privilege to their utterances only applies when participating from these locations.

On behalf of the select committee, I welcome the Minister for Finance, Deputy Donohoe, and his officials. To provide for the smooth running of the meeting, any member acting in substitution for a member of the committee should formally notify the clerk now if they have not already done so. Divisions will be taken as they arise. Members must attend in person in the committee meeting room for divisions, although they may attend the meeting remotely. Members attending this meeting in accordance with Standing Order 106(3) should be aware that, pursuant to the Standing Order, they may move amendments but cannot participate in voting on that amendment. If you are not a member, you can move an amendment but you cannot participate in the voting. I now invite the Minister to make his opening remarks.

Minister for Finance (Deputy Paschal Donohoe): My policy is to make my remarks on the Bill section by section as the Minister of State, Deputy Fleming, dealt with the overall thrust of the Bill on Second Stage in the Dáil. With the consent of the committee, I will confine my comments to each section.

Section 1 agreed to.

SECTION 2

Question proposed: "That section 2 stand part of the Bill."

Deputy Pearse Doherty: While this Bill has many pages in it, most of it is a copy of the agreement that has been reached at European level. This section and the other sections just approve that agreement in Irish law. I will just go through a couple of points on this section, which will probably deal with the issues with the overall Bill. I have outlined Sinn Féin's view on the changes to be made to the European Stability Mechanism, ESM, under this agreement. Some of these are positive and some are not. Some could cause serious issues in accessing different credit lines. We in Sinn Féin, and the Irish people more broadly, have a view on this. We are all too familiar with the conditions and austerity that were placed on the Irish people as part of the financial assistance programme following the crash of 2008 and 2009.

In this legislation, we see reforms regarding the memorandum of understanding on the precautionary credit line. This is replaced by a letter of intent to be submitted by a member state. In submitting that letter of intent, the member state would outline its main policy positions, which would then be assessed by the Commission. Despite symbolically abolishing the memorandum of understanding and replacing it with this letter of intent, the eligibility criteria are hardened so much that they effectively kill the instrument and put it out of reach for most European countries. That is the core concern we have in respect of this agreement.

Under Annex III, an ESM member qualifies for the precautionary condition credit line provided it meets the following criteria. It must not be under the excessive deficit procedure, it must have a general government deficit not exceeding 3% of GDP and it must have "a debt benchmark consisting of a general government debt to GDP ratio below 60% or a reduction in the differential with respect to 60% over the previous two years at an average rate of one twentieth per year". We have made the point that some of these criteria are outdated. Indeed, the ESM itself has suggested that the criteria need to be changed and yet we are enshrining an agreement subject to these criteria in Irish law. As we argued at the time, these were never the criteria we should have been using.

Let us consider these criteria. The credit line would obviously be called on during downturns. During the financial crisis, all eurozone members, with the exception of Luxembourg and Estonia, were under the excessive debt procedure. Is it then a credible criterion that a state cannot be under the deficit procedure? As I have said, during the financial crisis, every single member of the eurozone, bar Luxembourg and Estonia, would have been excluded. What are the Minister's views on that criterion? I also have a number of other questions.

Deputy Paschal Donohoe: I believe the criteria that are in place for access to the precautionary condition credit line, PCCL, are appropriate. I will outline a number of reasons that is the case. The first is it is important to be clear about what are the circumstances in which the PCCL could be accessed. They could, for example, apply due to a natural event due to an earthquake. It is all about focusing the availability of this credit line for circumstances that are completely beyond the control of a member state and a government. Therefore, it is possible that you could have a country that is fulfilling the current Stability and Growth Pact conditions and still, for reasons beyond its control, finds itself in need of assistance to meet funding needs in an emergency. That being said, the Deputy is aware now of the review that has recommenced by the European Commission in relation to the future of economic governance within the European Union which is focused on the debate about the fiscal rules. When that debate concludes, and if there were to be a change in the Stability and Growth Pact, SGP, that was to change some of the targets and conditions within the SGP, I entirely expect that the operation and access to this PCCL will have to be in line then with a revised SGP if there were to be a revision in the SGP. In one way, I take the Deputy's point that at present there are very few countries that would meet the criteria of the SGP, but there is a review under way in relation to that. Even while there are few countries that meet the criteria of the SGP, it is possible that you could have a country that meets the criteria, as they are currently defined, and still, for reasons beyond control, finds itself in need of this financial instrument.

Deputy Pearse Doherty: As I stated on Second Stage and again today, there is acknowledgement that these criteria are outdated yet we are enshrining them in law. That is a failure, in terms of the negotiations that have happened and the agreement that has been reached, to reach an agreement that was fit for purpose in today's age.

It is interesting the example the Minister cited in terms of an earthquake. That may be the case and we will tease that out a little further. For those who are looking for this type of credit line, it is likely in the main that they will have used their own resources. In accessing it, we would, more than likely, be in a downturn.

Let us go on to the second criterion, because there is not only one criterion in terms of the excessive deficit procedure that they must reach. As I said, during a financial crash, only two countries would be eligible for this credit line if that were to happen. Let us look at the second criterion of not exceeding the 3% deficit of GDP. The general government deficit is exceeded by 3% in 25 member states. That means that, currently, if there was an earthquake, to take the Minister's example, Belgium, Bulgaria, Czechia, Germany, Estonia, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, The Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden and we in Ireland, regardless of the size of the earthquake, would all be locked out of this line of credit.

Deputy Paschal Donohoe: We are in an incredibly unique situation. I anticipate that by the time we move into next year, the number of countries that would be in excess of the 3% deficit requirement will begin to change and one will see more countries - due to economic growth and due, I hope, to the retreat of the economic consequences of Covid-19 - fall at or below 3%. In any event, if there is change in the SGP to reflect a new economic reality, the operation of this treaty will have to reflect it.

Deputy Pearse Doherty is correct to say this treaty is being brought in before that debate has concluded. I would anticipate that it will take at least a year for that debate to conclude and for agreement to be reached on the future of the SGP but in that year, I still believe, there is value in this treaty being implemented because it brings forward by two years overall the kinds of support that may be available to countries if they find themselves facing a natural risk or a banking difficulty. The enhanced conditions credit line, ECCL, which I suspect is the other credit line Deputy Pearse Doherty will come on to in a moment, is applicable in a broader range of circumstances.

Deputy Pearse Doherty: The Minister is saying that the other rules may change and if they change then they will be subject to this. This is legislation that we are enshrining in Irish law today. Committee Stage has to be decided now. These are the rules that we are saying should apply to this credit line, whatever about what the Minister and the rest of the finance ministers may decide down the line. The point I make is these are not fit for purpose. These do not meet the needs of access to these credit lines because the criteria are too stringent.

While the Minister may make the point that some of those countries I mentioned may achieve a deficit of less than 3% in the upcoming period as the pandemic recedes, let us look at the debt-to-GDP ratio, which is another criterion that has to be met here. It is that the general government gross debt does not exceed 60% of GDP. For example, at the end of last year, that means Belgium is out. Germany is out. Greece is out. Spain is out. France is out. Croatia is out. Italy is out. Cyprus, Hungary, Austria, Portugal, Slovenia, Slovakia and Finland are out because they have all exceeded that criteria. Whatever about reducing your deficit to that level, reducing your debt to below 60% of GDP is not likely to happen in the short term, but then you have the option of reducing it one twentieth per year. If we look at that, for those whose debts exceed 60% of GDP, they must reduce that ratio in two consecutive years and this would in the main be during a downturn. If it was to happen, next year or the year after, that a country needed to access this, it would be during a time when it would be spending a lot on the pandemic and so on. It would be during a time of financial pressure that, to be able to ensure that one can avail of this precautionary credit line, one would have to be reducing one's debt which is the opposite of what one should be doing. We have learnt the lessons from the policy that was followed here after the financial crash and in some other EU member states that this was the wrong thing to do and we are dealing with the pandemic and the impacts of the pandemic in a different way. Requiring countries to reduce their debt over two consecutive years, which, as I said, is likely to be in a downturn, for access to this credit would be a bad and harmful economic policy. Therefore, again, it is not fit for purpose.

Let us take a live example. Let us consider Italy, for the sake of argument. Its debt-to-GDP ratio is currently 156%. What balance would it have to run for two years, most likely during a downturn, in order to access this credit line?

Deputy Paschal Donohoe: Deputy Doherty will be well aware that I do not have available to me the deficit trajectory that Italy might need to follow in those circumstances. In evaluating the point that the Deputy is making, it is worth emphasising that the Government of the same country, Italy, is committed to the ratification of this treaty too.

All the countries that the Deputy has named that are currently in excess of the SGP have all signed up to ratify this treaty and their Ministers are currently doing what I am doing. Why is that? Why would a Finance Minister, who understands the debt dynamics of his or her own country in a way that is superior to how the Deputy and I would, sign up to ratify this treaty? The reason they will sign up to ratify this treaty is because of the answer I have given the Deputy, which is an expectation that when the debate on the future of the SGP concludes, it will have a parallel effect on the operation of this treaty. That is the expectation that all governments which are committed to the ratification of it have.

Deputy Pearse Doherty: That is fine. The Minister is sitting down and saying that we will get it right the next time around and we will look at these ratios - that were not fit for purpose - and they will be changed. There is no doubt about it. The European Stability Mechanism, ESM, is already calling for that ratio of debt to GDP to be increased to 100%.

On the answer to the question I put to the Minister, I am sure he could do this on the back of an envelope. If the debt-to-GDP ratio in Italy is currently running just shy of 160%, that is 100% above the target in these rules to be able to access the credit line. The criterion for Italy to access the credit line is that it would have to reduce its portion of debt that is above the 60% by one twentieth. This means that in each of two years, Italy would have to reduce its debt by 5% in one year and 5% in the next year. Over a 24 month period Italy would have to reduce its debt by 10%. I have used Italy as an example, but it could be Ireland, France or Spain. It does not matter. If a downturn came and a country needed to access the credit line, that is the type of criterion. It is likely, as was said, that a country would be in a downturn at that point in time, although there are unique circumstances such as the Minister has pointed out, like natural disasters. It is likely that a country would be in a downturn at that time. The idea of having to forcibly reduce debt at that scale of 10% over two years, to be able to access the precautionary credit line, basically makes it inaccessible to countries other than the promise that it may change in the future.

In my time in the Oireachtas I have never seen a situation where we are passing legislation with very clear rules and strict conditions while actually saying "Well do not mind that because we are going to change all of that or we may change that in the future, and if we change that in the future then this will change also." We must look at what is in front of us now and how it applies now to EU member states.

Deputy Paschal Donohoe: Why are the Italian Government, the Belgian Government, the German Government and all the governments the Deputy has listed, committed to implementing this treaty? They see the debt dynamics to which the Deputy refers, and they understand what could be the implications of having to put in place excessive deficit reduction, but they are committed to implementing this treaty. Why are they? Because, when one brings forward a treaty or a law in front of the House it can only make reference to other laws and other treaties as they stand at this point in time. That is the reason.

I understand why the Deputy is concerned. He is pointing to risks within the eurozone and he is pointing to his own political views around the need to reduce debt and deficits, but as concerned as the Deputy is, there is also a relevant question to the points the Deputy put to me. If the Deputy is so focused on the debt situation of the majority of countries within the EU that could be impacted by this treaty, why have all those governments signed up to implement this treaty? They signed up because they are aware, as am I, that if and when change were to happen in economic governance, it would impact on the operation of this treaty. Why is the Italian Government committed to implementing this treaty? Why has the Belgian Government, and all of the governments listed by the Deputy, committed to doing this? The reason is exactly as I have just said to the committee. We are looking at an extraordinarily unique situation this year in deficits, maybe less so in debt, for the reason the Deputy has said, which is that it will come down at a far slower pace for a while - if at all. Despite all of that, all of the European Union is committed to doing this. The reason is as I have said to the Deputy on a number of occasions now.

The Deputy is judging all of this by the implementation of deficit reduction paths that are predicated on the exact reapplication of previous deficit reduction strategies. That is what the Deputy is basing his analysis on. The fact that every member of the European Union is committed to implementing this treaty would indicate that those countries that could be affected by the scenario as the Deputy has outlined do not accept the Deputy's analysis.

Vice Chairman: We will move on soon because there is a long way to go but the Deputy can come in once more.

Deputy Pearse Doherty: In fairness, I do not think there is that long way to go, with the Vice Chairman's indulgence. There are different views across Europe in relation to this. There is a large view out there that this is a very big missed opportunity. That view has been expressed by those in parliament in Italy with regard to the reforms that could have gone there. The point here is that we are dealing with outdated rules. The Minister has acknowledged that the rules that currently exist, the rules that we are enshrining into this legislation, are outdated and are not fit for purpose.

I will now move on to issue of the letter of intent-----

Deputy Paschal Donohoe: I will make a final point on the section, if the Deputy is moving on. The Deputy has said there is a view by many that this is seen as a missed opportunity. Those views may well be expressed but in my other role as president of the Eurogroup, I played a role in brokering this agreement. All of the governments that are in the Eurogroup have signed up to this. All of them have. If a view is expressed that this is a missed opportunity, it is not a view that is being expressed by the finance ministers who are representing the countries referred to by the Deputy.

Question put and declared carried.

Sections 3 and 4 agreed to.

SECTION 5

Question proposed: "That section 5 stand part of the Bill."

Deputy Pearse Doherty: The letter of intent, which I mentioned earlier, is precisely the same document that the IMF uses for all of its programmes. In the IMF context at least, there is no less of an outcome of negotiations than memorandums of understanding, MOUs, in the ESM context. What is the difference here between the MOU that the ESM would have used in the past and the letter of intent, which will be used in the future but which is the process the IMF uses and which is quite restrictive and subject to the outcome of current negotiations?

Deputy Paschal Donohoe: In any event, any letter of intent will be the subject of negotiations. The Deputy should bear with me. I want a colleague to confirm to me what is the technical detail and technical difference, which I will give to the committee in one moment, in order to answer the Deputy's question fully. Subject to further confirmation, which I will supply to the Deputy before Report Stage, I am informed that the main difference is that a MOU would contain corrective measures of conditionality that would need to be implemented, but a letter of intent would outline how compliance with the eligibility criteria would be met. It would therefore be a letter of commitment from a member state government outlining how it would meet the criteria that would be set for the ECCL in particular.

Deputy Pearse Doherty: The Minister mentioned that a letter of intent would also be subject to negotiation. Subject to negotiation between whom?

Deputy Paschal Donohoe: The negotiation would be between the member state and, in this case, the ESM.

Deputy Pearse Doherty: The letter of intent, then, would not include corrective measures but, rather, would outline on the part of a member state how it would comply with the criteria. What negotiation would arise in that regard?

Deputy Paschal Donohoe: Negotiation would arise as to what the nature of the measures to be undertaken by a country would be, over what timeframe and how. That would be the subject of a negotiation between the government of the country and the ESM.

Deputy Pearse Doherty: Even though those measures would not involve corrective action as such.

Deputy Paschal Donohoe: Yes.

Deputy Pearse Doherty: Will the Minister, as somebody who negotiated this on behalf of the Eurogroup, give me a practical example of how it will operate and the type of negotiation involved?

Deputy Paschal Donohoe: I expect that it would contain commitments as to how borrowing would be reduced and over how long a period. Then it would be up to the ESM and the member state engaging with the ESM what level of detail it would go into as to how that borrowing would be reduced.

Deputy Pearse Doherty: Would it be up to the ESM to reject the letter of intent?

Deputy Paschal Donohoe: I imagine that great efforts would be made to avoid such a situation because I imagine that if a country were in need of a credit line from the ESM, and if those negotiations were then to break down, it could only make an acute situation even worse. Therefore, while I suppose that could be possible theoretically, I imagine that all efforts would be expended to avoid it happening.

Deputy Pearse Doherty: Going back to the issue of the rules, the Minister mentioned the Stability and Growth Pact being under review. It is very likely that these rules will change. If they did not, it would be a bit mad. The ESM has called for the debt-to-GDP ratio ceiling to be raised to 100%. Hypothetically, if that new rule were to be applied, would it automatically be reflected in these criteria or would we have to change the legislation again?

Deputy Paschal Donohoe: No, we would not need to change the legislation, but the board of governors of the ESM would then be involved in determining the eligibility criteria. As I said, I expect that the eligibility criteria the ESM would set would be consistent with the SGP at that point. The board of governors would matter in such circumstances.

Deputy Pearse Doherty: Is the Minister saying that the board of governors can deviate from the Stability and Growth Pact and decide its own criteria?

Deputy Paschal Donohoe: No, I am not. This is why I have said the operation of this treaty and of these procedures would have to be consistent with the rules as they exist at any point. I do not expect - nor would it happen - that the board of governors of the ESM would take a decision that would be different from the letter or spirit of the fiscal rules.

Deputy Pearse Doherty: Does the board of governors have the legal ability to do that? That is the question, regardless of whether the Minister expects it to do so. Is the board compelled under law to set criteria that align with the Stability and Growth Pact that currently operates or does it have the ability to deviate from it under law?

Deputy Paschal Donohoe: I will check that before we get to Report Stage, but it is such an unlikely possibility that I would be surprised if there were a legal provision for it in place. The members of the board of governors of the ESM are, in many cases, the finance ministers of ECOFIN anyway, so the finance ministers themselves or their representatives will be involved in making this decision. The latter makes it exceptionally unlikely that they would deviate in any way from the rules they themselves are involved in setting. However, as to whether there is a legal provision for that, it is a good question and I will come back to the Deputy on it.

Deputy Pearse Doherty: I thank the Minister. As for the enhanced conditions credit line, this still provides for a MOU as opposed to a letter of intent with the other credit line. That MOU will have to detail the conditionality attached to any financial assistance facility, and the context of the MOU will have to reflect the severity of weakness that needs to be addressed. The IMF will play a role in these negotiations. Can the Minister provide any assurances, under the agreement we are dealing with now, that such MOUs will not include conditions that undermine public services and threaten economic recovery, as we have seen in previous MOUs that were applied to Ireland?

Deputy Paschal Donohoe: Does the Deputy mean give assurances regarding the future conditionality that could be involved if this facility were to be accessed?

Deputy Pearse Doherty: Yes.

Deputy Paschal Donohoe: I cannot give such an assurance because the conditionality would depend on the economic circumstances at the particular point in time and the nature of the crisis. I am therefore not in a position to give the Deputy a blanket assurance as to what the conditions could be.

Deputy Pearse Doherty: It is not about the conditions. There is nothing in this agreement which suggests the conditions would not undermine public services or threaten economic recovery. What we saw with the MOU to which we in Ireland were subject was that public services were undermined. We are still dealing with the consequences of that. Gross economic recovery was impacted as a result of the period of recession. It was lengthened and deepened, and the impact of that was felt by communities and regions. The point I am making is that there is nothing in this treaty which states that an MOU must ensure that it does not undermine public services or threaten economic recovery.

Deputy Paschal Donohoe: Yes, but the people who would be involved in making the decisions in this regard would be very much aware of that as a risk. We are talking about a member state government and a finance minister negotiating to secure additional funding in a time of crisis. In such a case the negotiation to which I referred earlier would look to strike the best possible balance between getting the member state out of the acute difficulty it could be in and preserving public services and living standards as they stand. However, in the absence of a credit line such as this, the hit and damage that could be caused to public services and economic recovery would be far bigger. This could be pointing to a difference in approach between us in the operation of this line. I think it is appropriate that conditionality is in place regarding the access of a credit facility such as this, given this uses the pooled and credit funding of the European Union as a whole, to which countries contribute. The conditionality would also have to be agreed and get the balance right between maintaining public services as they stand and avoiding even worse difficulty if this credit line were not to be available to a country.

Deputy Pearse Doherty: It would be naive to think that just because the IMF, European ministers and the ESM are involved in these negotiations, they will always have the interests of the member state seeking to access credit. They may genuinely think they have the interests of the member state, but they will be coming at it from their own position and views. We have experienced this. Was the Minister's predecessor not walking down the steps into the Dáil when he got the call saying he could not burn the bondholders because a bomb would go off in Dublin if he did? A Cabinet decision taken democratically by elected Members of the Oireachtas elected to the office of Minister was halted by a phone call after a decision in Europe. That has been our reality and as a result of deciding to fold at that point, unguaranteed bondholders were paid billions.

What is worth noting and welcome in this part of the legislation is that this would not happen today. Bondholders would be burned. It is now the accepted principle throughout Europe, through the Single Resolution Fund, that there would be a bail-in and bondholders would be burned, in the first instance, through a tiered structure. Unfortunately, this comes ten years too late for Ireland and we did not have a Cabinet at the time willing to implement the decisions it took. I do not know if there was ever a time in history that a Cabinet decision was overturned by a phone call.

It is a bit naive to suggest that just because the Minister's colleagues are in ECOFIN, they will always have Ireland's interests at heart. We have seen many of the challenges, twists and turns in relation to other objectives Ireland wanted to meet and how they were frustrated along the way, whether by Germany or another entity. Others have their own ideas, which are valid, but they have their own priorities as regards how the system should work.

Deputy Paschal Donohoe: I never said that would happen. I said this was a negotiated outcome and other countries would be involved and I pointed to the acknowledgement that there is conditionality. I never, in any of my statements, said this would be guided by altruism alone and purely the interests of one country. This is a negotiated outcome, as I have said repeatedly in my presentation. The reason is that multiple national interests are at stake, as are the interests of institutions charged with protecting the health and future of the eurozone. For this reason, I have referred throughout my presentation to other countries being involved in this and the existence of conditionality.

With regard to the Deputy's point about what happened to us a decade ago, the abiding lesson I take from that is that if a country loses its economic sovereignty and is not in a position to fund itself and give confidence to others that it will be able to fund itself in the future, it is vulnerable and more open to pressures that can develop. It is one of the reasons this treaty is now being ratified throughout the European Union. Through the development of the credit lines the Deputy and I discussed a few moments ago, and especially through the strengthening of the role of the European Stability Mechanism with regard to the SRF, the EU is trying to prevent acute financial crises from developing in the future and mitigate the harm they cause. Nowhere in my presentation have I sought to infer that this is anything but the outcome of negotiations.

Deputy Pearse Doherty: We have gone through the credit lines provided for in this legislation, which would be open for member states to apply to if they met criteria, which I believe to be outdated. In each of those credit lines conditionality is negotiated with the ESM and, in some cases, the IMF. Some of the conditionality will be corrective and some will relate to meeting the criteria.

Let me just go back to the Single Resolution Fund because the ESM will also lend to the SRF in order to bail out banks after the bondholders have been burned. What conditionality do we place on the financial institutions as a result of making that lending available to the Single Resolution Fund which will then make it available to the financial institutions?

Deputy Paschal Donohoe: I will get a note on that now. I ask the committee to bear with me. The conditionality involved, at a bare minimum, is the obvious point that the SRF, including the share of the ESM funding the SRF, is funded by contributions banks make. That is a profound difference from where we were a decade ago. However, if the Deputy takes me through his other questions, I will see-----

Deputy Pearse Doherty: We want to get the money back, whether it is from lending to a member state or the banks, but the money will be provided by the ESM through the Single Resolution Fund. There will be strict conditionality if a member state looks for it. That could be profound, especially in the context of a memorandum of understanding, MOU. What conditions will be placed on financial institutions in terms of restructuring or doing whatever is in the public good? I do not see them anywhere in this comprehensive legislation.

Deputy Paschal Donohoe: If there is any facet of it that I need to share with the Deputy, it will come to me in a moment. However, the key feature of how we would deal with banks is that all of this would happen after bondholders had been bailed in and in fairness to the Deputy, he made that point earlier. I ask him to bear with me for a moment.

Deputy Pearse Doherty: It is clear the Minister was a lead negotiator on this. Did it ever cross his mind that we should impose conditionality on the banks, as we do on member states? He had a key and prominent role in negotiating this agreement.

Deputy Paschal Donohoe: I did, and I believe this is a good, balanced outcome for all of us. The progress we made in ensuring the SRF and ESM are funded by banks rather than the taxpayer was a massive step forward. The key piece of conditionality in this is, as I explained, that the money that goes into ESM - the share of the ESM that is relevant to this - and to the SRF is a contribution from the banking sector. There is no further conditionality there.

Deputy Pearse Doherty: Member states will have to pay the money back with interest, just as the banks will have to ensure the Single Resolution Fund is made up of bank contributions. However, member states, using taxpayers' money, will step in if that is not sufficient at a point in time, but will be paid back. There are no structural or other conditions that could be applied to member states if they run into financial difficulties. If a bank is running into financial difficulty, there is bail-in and burning of bondholders, which should have happened ten years ago, but in any event is happening now. In addition to the bail-in of bondholders, we will have the tiered process and the Single Resolution Fund. However, if the Single Resolution Fund, which is made up of bank contributions, runs out, taxpayers' money, through the ESM, will be made available to banks. It has to be paid back but there is no other conditionality on top of that. Yet member states that run into financial difficulty have to pay back the money to the ESM in an agreed period and there is a raft of conditionality. The IMF is drawn in as the ESM. There are negotiations around structural changes that may happen around possibly selling off assets and changes with laws that might be implemented and so on. As the lead negotiator in this, did the Minister ever consider that would not be fair or balanced and that maybe banks should have conditionality imposed on them if they run into difficulty?

Deputy Paschal Donohoe: It is there. I will explain why. It is there because the bondholders at this point will be bearing a cost that they have not borne before. That is the difference. The Deputy is wrong in what he says about the taxpayer funding the operation of the ESM. In these situations it will also be banks through lending to the ESM that will be contributing to the operation of the ESM in backing up the SRF, to be very clear. In this particular set of circumstances it is banks that are funding the operation of the SRF if it is dealing with a banking difficulty. The parity of treatment arises in this situation. It is banks funding the consequences of banking difficulty, not the taxpayer. That is the key difference. It is a massive and much-needed improvement on where we have been. It is a big step forward in how the costs of banking difficulty are borne by banks. I am not quite sure what other conditionality the Deputy would want apart from the key fact that it is banks which are now in the front line of paying for banking difficulty and not the taxpayer. That is why this is a step forward and that is why I am recommending this to the Dáil. That is the huge change in where we are. That is the contribution they are making.

Deputy Pearse Doherty: How much of a contribution is Ireland making to the ESM? Is the Minister suggesting that the ESM will not lend to the SRF which will lend to banks?

Deputy Paschal Donohoe: No, the ESM will lend to the SRF. The ESM will also-----

Deputy Pearse Doherty: The money-----

(Interruptions).

Deputy Pearse Doherty: -----by the member states which is then raised on the financial markets.

Deputy Paschal Donohoe: No, to be clear, the ESM will be putting funding into the SRF but in these situations the ESM would also seek to access funding and loans from the banking sector.

Deputy Pearse Doherty: Yes, but the point I am making is that the money which goes from the ESM to the SRF is coming from the ESM and the ESM is made up of capital contributions that are made from member states - taxpayers' money - and then leveraged on the international markets.

Deputy Paschal Donohoe: Yes, that is correct.

Deputy Pearse Doherty: Therefore, in circumstances where the SRF funds are depleted, taxpayers' money flows into the banks in the case of a bailout but only after bondholders have been burned, the SRF has been depleted and they need a credit line from the ESM.

Deputy Paschal Donohoe: In situations such as that, the ESM would play a role and would also use its funds to do that. In those situations, the ESM will also look for funding from the banking sector itself. The Deputy asked me earlier about the contribution that Ireland will make to the operation of this. Over time, it will be €815 million.

Deputy Pearse Doherty: I want to be clear that it is not that I have an issue with this. The actual tiered structure of how to deal with banking failure is appropriate. We are getting to the point where we should have been, which is what Sinn Féin had articulated. The Minister and his colleagues lambasted us and now they cheerlead the fact that bondholders should be burned in a scenario where a financial institution fails, that that should be the first line of defence and that there should be other tiered structures. The key point is that as we go down the waterfall of bail-in, there is a point where the ESM funds can be made available to the SRF. They have to be paid back within three years but they are being made available to the SRF for the purpose of providing that support for the banking sector. That is taxpayers' money.

Deputy Paschal Donohoe: To be completely clear, in that situation loans from the backstop itself are repaid by contributions from the European banking sector. In addition to repayments that are funded by banking sector contributions, the single resolution mechanism regulation sets out a series of conditions which limit the risk to which the fund, and thereby the backstop, could be exposed. A contribution from the fund or the backstop itself to recapitalisation could only be made following the bail-in of at least 8% of the total liabilities, including funds, meaning that shareholders and creditors suffer losses before the SRF or the backstop itself is accessed. My point is that before we get anywhere near the development of those kinds of circumstances, taxpayers will be protected by bondholders being brought in to pay for the cost of banking difficulty and we will have the operation of the SRF.

Deputy Pearse Doherty: Yes, but let me say in a friendly way that the Minister misled the committee earlier on because the point is that there are tiered-down, waterfall systems where bondholders will be burned in the first instance and then the fund that is made up of banking contributions - the SRF - would be used. However, after that it is taxpayers' money: it is contributions from the ESM to the SRF that will flow into the financial institutions. The Minister gives the impression, maybe by accident, that no taxpayers' money would be used and that the difference between the banks is that it would be all banking money. That is not the case. It will be paid back to us by the SRF within a three-year period but before that initial three years there will be a flow of money from the ESM which is capitalised through contributions from member states. As the Minister mentioned, it will be in excess of €800 million from Ireland, with larger contributions from other states depending on the size of their economies. It is an important point around the accuracy of what we are dealing with. It is a tiered structure. The legislation allows for the ESM to lend to the SRF and sets out the conditionality in relation to that in terms of when the SRF would have to pay back those funds to the ESM. However, it is a case where taxpayers' money, albeit at the very end of the line, can flow in to financial institutions. Therefore, returning to the point that I was making earlier, if that is not triggered I do not see an issue in terms of conditionality but if it were to be triggered there is no conditionality on the banks.

Deputy Paschal Donohoe: That would only happen if every one of the safeguards before getting to that point did not work.

Deputy Pearse Doherty: Exactly. That is what the legislation is. The legislation is to make provision for that. The point is-----

Deputy Paschal Donohoe: Sorry, the Deputy is cutting over me. I did not at any point cut over the Deputy. That would only happen if every other safeguard before that was not big enough. Does the Deputy accept that?

Deputy Pearse Doherty: We know that. Sure, I know the legislation. However, the Minister is making the point that taxpayers' money would not be used in terms of a contribution to the financial institutions. That is factually inaccurate. It will only happen after all of the other safeguards are used but that is exactly what the legislation is. The legislation is about that last safeguard to ensure a bank would not fail. When the SRF resources are depleted, there is an ability for the ESM to lend to the SRF which will make money available to the banks, and that has to be paid back. It is important for accuracy that this is not a difference between us on this issue. I am not arguing that it should not happen. I am saying, for the purposes of accuracy, that there is a point where taxpayers' money via the ESM would be made available to the SRF at the end of the line where all other options - the bail-in and the SRF - have been exhausted. That is when it kicks in. Therefore, as a result of the fact that there is taxpayers' money on the line - yes, with strong provisions in regard to safeguarding that money and getting it back from the SRF - there should be an ability to look at conditionality on the financial institutions just as you are imposing conditionality on member states for their credit lines.

Deputy Paschal Donohoe: If the ESM were to lend that money to the SRF, the ESM would get that money back at a point in the future because it would be a loan. Where I differ from the Deputy is that the issue of conditionality has less relevance here. In the circumstances in which the lending between the ESM and SRF happens, by that point so much action would have taken place that would have had a profound impact on the bank. In those circumstances, we would be talking about a situation in which bondholders have already made a contribution, having huge effect on the value of the bank. We would be talking about where the Single Resolution Fund has already played a role that will also have an impact on the value of the bank. Many different steps would need to be gone through, which the Deputy acknowledged and we agree on, before we get to the operation of the ESM. In those situations, because the ESM is lending money to the SRF, the ESM will also get its money back - which is the taxpayer - albeit at a point in the future. That is where the contribution of the banks comes in; in all the steps that would happen before we get to the role that the SRF is lending to the ESM.

Deputy Pearse Doherty: Okay. First of all, the Minister's logic-----

Vice Chairman: Can the Deputy hold on just for a second?

Deputy Pearse Doherty: -----in some of this is way out there. The Minister made the argument in his last contribution that-----

Vice Chairman: Deputy Pearse Doherty, can you hear me?

Deputy Pearse Doherty: Let me finish with this point.

Vice Chairman: I am sorry. I just want to mention something. I want to bring the debate on this section to a conclusion. We have discussed it at length. There were no amendments. We are now discussing the section and I believe we have exhausted it, so we need to move on. I need a final response from Deputy Pearse Doherty and from the Minister.

Deputy Pearse Doherty: As I said, some of the Minister's logic in relation to this is very left field. He has made the argument that this is a loan to the banks. But sure, what does he think the other credit lines are to member states? They are not grants. They are not cheques that do not have to be paid back. They are loans as well. They have to be paid back. The Minister has argued that it is a loan, therefore, we will get the money back. That does not make any sense. The other two credit lines are loans as well to member states with the expectation that member states pay those loans back in the future. We will disagree on this. Obviously, as the chair of the Eurogroup the Minister had a key role in this. I am disappointed. Yes, the bondholders will be bailed in. That is good. We have been calling for that for years. It is the logical thing to do. Yes, there is a fund established by the banks and taxpayers' money will not be utilised in the settlements. That is the right thing to do, but there is scope for conditionality. For example, we have had it in our own experience here. Should the board of a bank continue to exist, or should the option be available to the ESM to remove the board of a bank and the CEO of a bank if he or she was involved in reckless lending that forced bondholders to take the hit and the Single Resolution Fund to be exhausted?

The Single Resolution Fund is made up of contributions from financial institutions across member states. Some of these financial institutions may not have put a foot wrong but will be paying for what could possibly be a rogue financial institution. That type of conditionality does not exist because you have not put it in place. Yes, there will be plenty of conditionality and an open book in relation to member states, including that the Minister cannot give the commitment that even those conditions would not affect public services or economic recovery. Yet, there is no scope for the ESM to introduce that type of conditionality even though the same taxpayers' money that would be made available to the credit line to member states would be utilised by banks through the vehicle of the Single Resolution Fund. On that point, I will leave my comments on the Bill.

Deputy Paschal Donohoe: I disagree with the analysis put forward by the Deputy. This is a piece of legislation that seeks to protect the taxpayer and support and help countries when they are in situations of financial and economic difficulty. In the absence of the credit lines proposed here, countries could find themselves in even tougher and more difficult economic circumstances. Yes, there is conditionality there because this is other countries that are in effect making money available to countries that are in difficulty. If they are doing that, it is understandable that on behalf of their own taxpayers they would look to ensure that money is used in a way they think is fit and appropriate. That is why I believe there is a role of conditionality here. If Ireland found itself in a situation that our funding was used to support or help a country in the context of an economic crisis, Irish taxpayers would expect a role of conditionality in it.

I refer to the point raised by the Deputy regarding banks. I agree with much of what he said in that this is about how we ensure banks pay for their own difficulty and pay for cleaning up their own cost. I expect that in any situation where a bank is involved in finally receiving support from the SRF, those who have been involved in running a bank that needs support from the SRF would find themselves facing some pretty tough questions too.

Question put and agreed to.

Sections 6 to 8, inclusive, agreed to.

Schedules 1 to 3, inclusive, agreed to.

Title agreed to.

Vice Chairman: Do the members wish to put any final questions or make any final comments? No. Does the Minister wish to make a closing remark?

Deputy Paschal Donohoe: No, thank you.

Bill reported without amendment.

Message to Dáil

Vice Chairman: In accordance with Standing Order 101, the following message will be sent to the Clerk of the Dáil:

The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has completed its consideration of the Finance (European Stability Mechanism and Single Resolution Fund) Bill 2021 and has made no amendments thereto.

Under Standing Order 100(2), this shall be deemed to be the report of the select committee on the Bill.

Business of Select Committee

Vice Chairman: The select committee is adjourned until 5.30 p.m. on Thursday, 2 December when we will deal with the Supplementary Estimate relating to Vote 6 - Chief State Solicitor's Office.

The select committee adjourned at 2.40 p.m. until 5.30 p.m. on Thursday, 2 December 2021.